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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/784,658

02/23/2004

Tom Pasinski

CU-3605

2302

26530

7590

11/06/2006

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EXAMINER

LHYMN, EUGENE

ART UNIT

PAPER NUMBER

3781

DATE MAILED: 11/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

NT

Office Action Summary	Application No. 10/784,658	Applicant(s) PASINSKI, TOM	
	Examiner Eugene Lhymn	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/14/06</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

16, 19, 25-26 are

2. Claims ~~25-26~~ *16, 19, 25-26* is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what is meant by the external circumference being narrower at the bottom side, wherein it is also unclear what physical dimension corresponds to the "external circumference." With respect to claim 26, it is unclear which sidewall Applicant is referring to. Appropriate correction is required.
3. Claims 19 recites the limitation "said engagement point" and claim 16 recites the limitation "sidewall extending around said sidewall." There is insufficient antecedent basis for these limitations in the claims. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1, 3-6, 13-15, 16-19, 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Pasinski (US 5984129). With respect to claims 1, 3-6, 13-15, 16-19, 25-28, Pasinski discloses the following:

- Inner surface 22 with an upwardly oriented opening that is circular and forms, to the degree that Applicant's inner surface is a cup, a cup with a drain formed therein (30 & 32), wherein the assembly which comprises the inner surface is permanently affixed to the paint tray 10 that also includes a ramped surface 22 wherein said opening is disposed thereon
- Hood 48 formed on a portion of the tray sidewall with at least one indentation 44

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 7, 8, 12, 20, 24 are rejected under 35 U.S.C. 103(a) as being obvious over Pasinski. With respect to the claims, Pasinski fails to disclose the assembly being removably affixed to the paint tray and sidewalls thereof. However, it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the

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paint tray and movement assembly of Pasinski to be 2 separate parts to provide means for easily cleaning the system.

8. Claims 9-11, 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pasinski in view of Renfrew (US 5472111). With respect to claims 9-11, 21-23, Pasinski fails to disclose the ramped surface having at least one post, and the sidewall having a corresponding channel, the post being snapped and pressed into said channel. However, Renfrew teaches a similar paint tray having an attachment with a post 8 that interfaces with a corresponding channel on the sidewall of the container as shown in Fig. 7, thereby providing a means for disengaging the attachment and thus providing a convenient means of cleaning the paint tray and said attachment. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to add a post and corresponding channel to the assembly and paint tray of Pasinski as taught by Renfrew so as to provide a means for conveniently cleaning the system.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Lhymn whose telephone number is 571-272-8712. The examiner can normally be reached on MTWT 6-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EL



ANTHONY D. STASHICK
PRIMARY EXAMINER